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No. 98-313

In The

Supreme Court of the United States

October Term, 1998

SONNY GIBSON,

Petitioner,

vs.

GERALDO RIVERA, TRIBUNE COMPANY, THE INVESTIGATIVE NEWS GROUP, INC., ASAP/GOODNIGHT AMERICA, INC., MARTIN BERMAN, PENNY PRICE, CBS TELEVISION, INC. and KCBS-TV LOS ANGELES,

Respondents.

On Petition for Writ of Certiorari to the California Court of Appeal, Second Appellate District

RESPONDENTS' BRIEF IN OPPOSITION

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STATEMENT PURSUANT TO RULE 29.6

Respondents in this action are Geraldo Rivera, Martin Berman, Penny Price, The Investigative News Group, Inc., Tribune Company, and CBS INC.

ASAP/Goodnight America, Inc., and CBS-Television, Inc., do not exist as separate legal entities.

The Investigative News Group, Inc., does not have any parent companies or nonwholly owned subsidiaries.

Tribune Company does not have a parent company, and has one nonwholly owned subsidiary, Landoll, Inc.

CBS INC. is now CBS Broadcasting Inc., CBS Corporation is the parent corporation of CBS Broadcasting Inc., CBS Broadcasting Inc. has one nonwholly owned subsidiary, Sportsline, Inc.

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REVIEW IS UNNECESSARY

Petitioner Sonny Gibson ("Petitioner" or "Gibson") misstates the holdings of the lower courts in an effort to create issues for review with constitutional ramifications.

The application of traditional state tort law appropriately addresses Gibson's claims for fraud against Respondents. Indeed, Gibson's fraud claims fail because the California appellate court, like the trial court, found that an element of his fraud claims (*i.e.*, damages) was missing — not because the First Amendment was extended to require "actual malice" in order to prevail on a claim of fraud.

Similarly, the appellate court, in its unpublished opinion, rejected Gibson's appeal concerning his defamation claim because Gibson never alleged that Respondents acted negligently. Instead, he alleged that Respondents intentionally made knowingly false statements and were involved in a wide-ranging conspiracy that included magazine writers, paid "shills" who appeared on the "Geraldo" show to intentionally lie about Gibson, and others. Consistent with his theory of the case, Gibson never presented any evidence of negligence on the part of Respondents.

In short, there are no constitutional issues raised by Gibson that this Court need address.

STATEMENT OF THE CASE

Gibson is a convicted perjurer, an admitted swindler, con man, and self-proclaimed Mafia hitman turned actor/producer.[1] He sued Respondents over his appearance on the "Geraldo"

1. Gibson purports to reveal his "true-life" adventures as a former Mafia hitman in a highly-publicized book titled *Mafia Kingpin: The True Story of Sonny Gibson*.

show, wherein several women accused him of sexual misconduct. Gibson initially alleged intentional infliction of emotional distress, fraud, negligent misrepresentation, promise without intent to perform, conspiracy to defraud, breach of oral contract, and promissory estoppel. At that point, Gibson did not sue for defamation. Only after the trial court granted Respondents summary adjudication on the bulk of Gibson's claims, observing that the gravamen of the complaint was defamation, did Gibson amend his complaint to allege defamation.

In granting Respondents summary adjudication on Gibson's claims of fraud and deceit, conspiracy to defraud, negligent misrepresentation, and promise without intent to perform, the trial court and the appellate court properly found that Gibson failed to establish an essential element in each of his misrepresentation claims.

The reason that Gibson went to great lengths to avoid alleging defamation is clear: Gibson does not have a case for defamation.[2]

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2. At the hearing on Respondents' motion for summary judgment held February 22, 1996, Appellant's counsel made several statements acknowledging that Gibson does not have a claim for defamation, including: (a) "I believe that Mr. Gibson's own statements about his former life make him what is known in the libel world as nearly libel proof;" (b) "I'm the one who made the decision not to sue for defamation;" (c) "But the problem I face when I put this all together was, I don't think it is the content of the show that is what was really done wrong;" (d) "Let me tell you that in one sense I don't believe it's important what was true or false about what was stated on that program, in a way. What's important here is that it was — it was broadcast that way;" and (e) "And I wouldn't be standing here today if all they had done was to publish the same things that they said about him on that show without asking him to come on the show and lying to him about how to get there."

STATEMENT OF FACTS

This suit arises from an episode of the "Geraldo" show which occurred and aired in California on May 3, 1994. The show, "casting couch abuses," dealt with sexual harassment in Hollywood. On the show, several women stated Gibson lied to them to get them to "auditions" only to have Gibson make unwanted sexual advances toward them, including but not limited to unwanted touching and display of Gibson in pornographic movies and nude photos.

In approximately May, 1993, the "Geraldo" show had done a show on sexual harassment in Hollywood. After that show, producer Penny Price ("Price") received a number of telephone calls from individuals identifying Gibson as a sexual harasser in a casting couch scenario. In or about March, 1994, Price suggested that the show revisit the topic of sexual harassment in Hollywood. Price believed the story was timely in that two well-publicized cases of sexual harassment were going on at the time — one concerning the Arsenio Hall show, the other the Wallace Kaye Agency. Then executive producer, Martin Berman ("Berman"), approved the idea.

Price began an intensive investigation for what was to become a show on "casting couch" abuses in Hollywood. She made hundreds of phone calls to pull the story together. She checked the status of the Arsenio Hall and Kaye cases. She contacted the lawyer and complainant suing Arsenio Hall and the attorney for Arsenio Hall.

Price spoke to various unrelated individuals and agencies regarding Gibson. She spoke to investigator Peter Smart and others with the Ventura County (California) district attorney's office who said Gibson was a "liar, a skunk and an SOB." She spoke to the Los Angeles Police Department. Price talked to

various guilds to confirm the complaints of harassment. She was told that there were numerous complaints of sexual harassment against Gibson.

Price contacted Gibson's former secretary (Chris Stearns, the woman who appeared as "Mimi" on the show) through an investigator who had called Price after the prior show on sexual harassment. Stearns corroborated the stories about Gibson's deceptive behavior.

In short, Price interviewed guests, worked with investigators, and talked to guilds, law enforcement officials, and other third-party witnesses about the stories being presented. Geraldo Rivera ("Rivera") testified that Price is very professional and has not been factually wrong about any of the guests in the scores of programs that they have produced. Rivera had no evidence or reason to suspect Price was anything less than totally professional for this show.

Price also hired Kristina Kirstin ("Kirstin") as an associate producer for that show. Kirstin advertised in entertainment industry publications (the "trades") for those who had information about sexual harassment, and took many of the telephone calls generated by the ads. She, too, contacted actors and casting agencies for the show. Kirstin also did an undercover piece on another guest who was accused of sexual harassment.

People who knew Gibson told Price that Gibson would appear on the show because he craved publicity. As she uncovered Gibson's past, Price realized that he was involved with a number of financial scams and numerous lawsuits. Before contacting Gibson, Price spoke with in-house counsel about how to approach Gibson.[3]

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3. Various people told Price that Gibson passed himself off as a (Cont'd)

None of the foregoing facts, elicited by Petitioner's counsel in deposition, have been challenged or disputed by Gibson.

Price recalled four short conversations with Gibson.

In her initial call to Gibson, Price told him that he had led a very interesting life, noting he was the author of *Mafia Kingpin*. Gibson acknowledged he was the author of *Mafia Kingpin* and told Price he was now a film actor and producer. Price then said, "Well, you've had a very interesting life, from mafia to Hollywood, it's certainly an interesting life. We'd like to have you on to talk about your life." Gibson said he was delighted and asked when the show was. Price testified that it was the shortest phone conversation she had ever had with a guest.

The second phone call Price had with Gibson was two days later. She asked him to send "backup" materials, because it is standard to get books or press kits if guests have them. The third call was made by Gibson's office, offering to come to New York. Price said it was better for Gibson to remain in Los Angeles. In the fourth call, Gibson's office called and said they knew Rivera was going to be in Los Angeles and asked whether Gibson could meet with Rivera or do the show with Rivera in Los Angeles. Price told Gibson it was better to keep the arrangements the same — Gibson in a remote studio.

(Cont'd)
producer, and a number of people and organizations told her that Gibson was involved in a variety of financial scams. For example, the Directors Guild of America informed Price that at one hearing, there were so many people who had complaints against Gibson that the room was not large enough. Gibson did not show up at that hearing because he was not subpoenaed. Price did not pursue the financial aspects of Gibson's dealings because that was not part of the show.

The women who appeared on the show were so frightened of Gibson that they insisted that he be in a separate location. Price promised the women that Gibson would be nowhere near them. It was decided that Gibson would be at another studio. The remote studio was told to do a "straightforward satellite," meaning one-way video and two-way audio. That is standard.

Each of the women who appeared on the show to talk about Gibson signed a "guest release" form, attesting, "I warrant that I will not make any remarks that I know or believe to be false or defamatory in the program."[4]

Rivera asked Price why Gibson was not going to be in the studio, and Price told him that the women were afraid for their lives.

Price and Rivera discussed Gibson's criminal record, including his felony convictions, and the information Price received from the Ventura County district attorney's office (the Ventura County district attorney's office told Price that Gibson was one of the most despicable people that they had ever encountered).

A few days before the show, Price spoke with Brian Patrick Clarke, after the woman identified as "Maria" on the show told Price that Clarke helped her after her experience with Gibson. Clarke appeared on the show.

The fact that the "Geraldo" show was going to be live in Los Angeles during that week was well publicized. Titles of the shows for that week were listed in newspapers and magazines, including *The Los Angeles Times* and *TV Guide*.

4. Although the women who appeared on the show to talk about Gibson did not use their real names on the show, their identities were provided Gibson in discovery during this case.

Billboards in Los Angeles announced the show was in town and live. In fact, Beth Spivack, who, during April and May 1994 and beyond, was the assistant to Gibson and his girlfriend and business partner, Reparata Mazzola, testified that she saw billboards in Los Angeles advertising the fact that "Geraldo" was going to be live in Los Angeles. KCBS ran promotions for the May 3, 1994, show during the previous day's "Geraldo" show.

Rivera stated that the show wanted to get the women's stories out, and then give Gibson the opportunity to rebut any and all of the allegations. As the tape of the show indicates, Gibson left the set at the remote studio no more than 10 minutes into the show. In fact, the show was only in the first of seven segments when Gibson left. Gibson would have had ample opportunity to present his side of the story had he stayed.

Gibson, in his Petition, mischaracterizes what transpired on the show itself. For example, he claims he was asked to smile for the camera and that that image was broadcast while the women described his sexual harassment. The tape of the show simply does not indicate that. The video tape and the transcript of the show do indicate what was broadcast, and the Court need not rely on Gibson's characterization.

There are a number of undisputed facts that Gibson does not acknowledge in his Petition:

- It is uncontroverted that Gibson himself contends that, as of 1993, before the "Geraldo" show, he had been "interviewed in more than 200 magazines, 3,000 newspapers and 400 talk shows." He had appeared on national television talk shows (including "Late Night with David Letterman" and "Good Morning America") and radio shows prior to the "Geraldo" show. His

autobiography, *Mafia Kingpin*, outsold *The Godfather*. He had spoken "to over 10,000 school kids, was interviewed by *People* Magazine, ABC, CBS and NBC affiliates, and prime time news shows." One newspaper article states, "Gibson said he has spoken to more than 600,000 youngsters [about his horrible past deeds and how he has changed] and that he receives thousands of letters thanking him for sharing his experiences." He had rented the famous outdoor billboard space in Times Square in New York City to promote himself. He had taken out full-page advertisements in the "trades." He had appeared as an actor on television and in motion pictures. He had an agent, a manager, and a publicist.

• By his own admission, *Mafia Kingpin: The True Story of Sonny Gibson* is a book based on Gibson's life. In it, he boasts of his "cold, grisly 'hits' and million-dollar fraud schemes" that "made him the most feared and respected man in the Mafia." He calls himself a "brutal robber," the "Mafia's fiercest assassin." He brags "he amassed millions from international scams, building his own personal fortune as a casino owner, narcotics smuggler, and highly paid gigolo with a voracious sexual appetite." The book exults: "He conned innocents, celebrities, and politicians before he was finally sentenced to a state penitentiary. There Sonny continued extorting, pimping, and murdering . . ." Gibson admits to 14 murders, being convicted of at least four felonies including fraud, and being a "criminal Einstein."

• In papers filed with the trial court, *Gibson* admits:

> Gibson thrust himself into the limelight to influence the public on the issue of his

conversion, his acting, and his work to reform juveniles, not sexual harassment.[5]

• After a number of individuals identified Gibson as a sexual harasser to the producers of the "Geraldo" show, the producers made hundreds of phone calls to bring together the show at issue here. They spoke to police agencies, a district attorney's office, entertainment guilds, actors, casting agencies, and Gibson's former secretary. They obtained information about his financial scams, the numerous lawsuits with which Gibson was involved, and his lengthy criminal record. They reviewed the materials Gibson provided, including his autobiography *Mafia Kingpin*.

• Gibson's tale is that the producers of the "Geraldo" show concocted an elaborate scheme to get him on the show by falsely telling him that the show was going to be about "women married to men in the Mafia," and that the show was going to be taped in New York. Yet, there is no dispute that prior to the show, newspaper and magazine advertisements, billboards, and radio and television promotions — all in the Los Angeles area — announced that this particular show was about "casting couch" abuses and that it was going to be done live in Los Angeles. Gibson lived and worked in Los Angeles.

These uncontroverted facts and others set forth above make it clear that the trial court did not err in granting judgment to Respondents on Gibson's claims, and that the California court of appeal was correct in affirming the judgment in its unpublished decision.

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5. Gibson claims his criminal and antisocial activities are behind him, that he is a changed man, and that "anyone can change."

REASONS FOR DENYING THE WRIT

I.

TRADITIONAL TORT LAW ADDRESSES GIBSON'S FRAUD CLAIMS.

Gibson asserts that the appellate court erred in affirming the trial court's finding for Respondents on his fraud-like claims. The lower courts, however, were correct in holding that Gibson suffered no damages from any alleged fraud.

In his First Amended Complaint, Gibson alleges that he was duped into appearing on the May 3, 1994, "Geraldo" show. Gibson alleges that he was told his appearance would be a promotional one in which he was portrayed as a reformed Mafia assassin turned actor and anti-drug activist. Instead, he became a target of accusations of sexual harassment and other offensive conduct.

Even assuming the "facts" as Gibson alleges them in his First Amended Complaint, the only result of the alleged misrepresentations made to Gibson was his appearance on the show.[6] Gibson's mere appearance on the show — no matter how he arrived there — caused him no damage. It was the statements made about Gibson that allegedly *caused* damage to him.

This is undeniable. In his deposition, Gibson testifies that the purported lies said about him on the show are what injured him:

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6. Obviously, Respondents vehemently oppose the characterization of events as put forth by Gibson. However, for the sake of their summary judgment motion, Respondents assumed the facts as Gibson presented them in his First Amended Complaint.

Q. Do you claim any lies were said on the Geraldo show on May 3, 1994, about you?

A. Yes.

Q. Do you claim that those lies hurt your reputation?

A. Yes.

Q. Do you claim that those lies caused you loss of income?

A. Yes.

Q. Do you claim that those lies caused you emotional distress?

A. Yes.

The letters purportedly from business associates withdrawing from their association with Gibson because of the show also indicate that it was the statements made about Gibson that caused them to sever their ties with Gibson — not the mere fact he appeared on the show. Obviously, then, Gibson's mere appearance on the show did not cause any damage — any purported damage was caused by what was said about Gibson.

Gibson states he informed "casting directors, investors, friends and associates" about his appearance on the "Geraldo" show, causing him "considerably more damage." Yet, other than his self-serving declaration, Gibson provides no evidence whatsoever that:

- Anyone received the notice;

- Anyone who received the notice paid any attention to it;

- Anyone who read the notice watched the show because of the notice (and would not have seen the show but for the notice);

- Anyone who watched the show solely because they received the notice believed what was said about Gibson; and

- Anyone who watched the show solely because they received the notice and believed what was said about Gibson, dealt with Gibson any differently as a result.

In fact, what evidence there is eviscerates Gibson's assertion. For example, Gibson's own manager, Wilt Melnick, testified he has never seen the "Geraldo" show, nor did he know Gibson was going to be on the show. Ellyn Stern, allegedly one of the producers/investors for a project that Gibson supposedly lost because of the show, never saw the show. Dr. Thomas Hines, another supposed investor in a project Gibson claims to have lost because of the show, never saw the show. Gibson simply cannot establish any of the "additional damage" he asserts.

It is equally clear that the statements made about Gibson would have been made whether or not he chose to appear on the show. Obviously, the show was live. Four guests were arranged to appear on the show to discuss Gibson. Rivera, Berman, and Pretlow controlled the topic of the show. Gibson provided no competent evidence that he would not have been

discussed in his absence. In fact, he was discussed before and after his brief appearance on the show.

Finally, there was no fraud. Gibson's fraud claims are premised on his speculation of an elaborate scheme involving "paid shills" and extraordinary efforts by Respondents to keep him in the dark about the show. However, *it is undisputed that the show, its topic, and the fact that it was being broadcast live from Los Angeles were publicly advertised prior to the airing of the show on May 3, 1994. TV Guide, The Los Angeles Times*, billboards seen by Gibson's assistant, and television and radio spots all announced the topic of the show and that it was being done live in Los Angeles.

Under California Code of Civil Procedure § 437c(n)(1), a cause of action has no merit if "[o]ne or more of the elements of the cause of action cannot be separately established."

With the Legislative amendments to Code of Civil Procedure § 437c in 1992 and 1993, it is clear that the failure by a plaintiff to state "specific facts" which prove the existence of a triable issue of material fact requires summary judgment for defendants. *Union Bank v. Superior Court*, 31 Cal. App. 4th 573, 590 (1995) (analyzing the new standards for summary judgment). It is equally clear that a plaintiff's failure to provide a sufficient factual nexus between defendants' alleged conduct (here, fraud) and plaintiff's alleged injury requires summary judgment for defendants. *Hunter v. Pacific Mechanical Corp.*, 37 Cal. App. 4th 1282, 1289 (1995) (speculation and conjecture as to causation will not prevent summary judgment for defendants).

Here, Gibson was unable to present any competent evidence — let alone clear and convincing evidence — that the fraud he alleges *caused* any damage to him. There is a vast amount of

evidence to support the trial court's decision granting Respondents summary adjudication on Gibson's fraud claims.

In his Petition, Gibson cites *Food Lion, Inc. v. Capital Cities/ABC, Inc.*, 887 F. Supp. 811 (M.D.N.C. 1995), for the proposition that conduct that occurs apart from publication may be actionable. Even *Food Lion* makes it clear, however, that "under [*Hustler Magazine v. Falwell*, 485 U.S. 46 (1988)], Food Lion cannot use its remaining claims to recover damages for injury to its reputation." *Food Lion*, 887 F.Supp. at 821. That is exactly what Gibson attempted to do.

Here, unlike the minimal damages awarded in *Food Lion*, Gibson presented *no* evidence of *any* damages suffered as a result of fraud.

II.

GIBSON NEVER ALLEGED NEGLIGENCE IN HIS DEFAMATION CLAIM.

From the onset of this litigation, Gibson has maintained that there was a conspiracy between and among the various defendants — including Respondents, "paid shills" who appeared on the "Geraldo" show, and others — to "get" Gibson by uttering known falsehoods.

Gibson has never contended that Respondents acted with negligence. Rather, Gibson has always contended — through the original complaint, a First Amended Complaint, and an Amendment to the First Amended Complaint — that the Respondents acted with actual malice and that they intentionally fabricated the allegations against Gibson and paid women to come onto the show to lie.

All discovery, propounded by both sides, focused on the allegations set forth in the complaints, namely that the defendants intentionally set out to "get" Gibson and fabricated the allegations against him. Gibson did not deviate from this alleged scenario during the entire litigation.

Consistent with his theory of the case, Gibson never put forth any evidence of negligence on the part of Respondents.[7]

In *Bostrom v. County of San Bernardino*, 35 Cal. App. 4th 1654, 1663 (1995), the court made it clear that:

> [S]ummary judgment cannot be *denied* on a ground not raised by the pleadings. (*Lewinter v. Genmar Industries, Inc.* (1994) 26 Cal. App. 4th 1214, 1223 [32 Cal. Rptr. 2d 305] [complaint alleged failure to warn of manufacturing defect in boat; plaintiff could not avoid summary judgment by showing failure to warn based on postmanufacture discovery of defect]; *Danieley v. Goldmine Ski Associates, Inc.* (1990) 218 Cal. App. 3d 111, 119-120 [266 Cal. Rptr. 749] [complaint alleged owner negligently maintained ski slopes; plaintiff could not avoid summary judgment by showing owner negligently cared for her after accident]; *Cochran v. Linn* (1984) 159 Cal. App. 3d 245, 250 [205 Cal. Rptr. 550] [complaint alleged products liability based on manufacture and sale of liquid protein diet; plaintiffs could not avoid summary judgment by showing defendant negligently wrote book promoting diet]; *see*

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7. Respondents set forth, in some detail, what they did to put the show together. Those uncontested facts not only negate any inference of actual malice (which is the only allegation levied at Respondents in the pleadings), but also demonstrate that Respondents were not negligent in airing the show.

> *generally FPI Development, Inc. v. Nakashima* (1991) 231 Cal. App. 3d 367, 381-382 [282 Cal. Rptr. 508].)"
>
> If the motion for summary judgment presents evidence sufficient to disprove the plaintiff's claims, as opposed to merely attacking the sufficiency of the complaint, the plaintiff forfeits an opportunity to amend to state new claims by failing to request it.

Bostrom, 35 Cal. App. 4th at 1664 (citing *Kirby v. Albert D. Seeno Construction Co.*, 11 Cal. App. 4th 1059, 1068 (1992).

In the instant case, Gibson never alleged — nor presented any evidence — that Respondents were negligent in doing the show. The appellate court, then, properly applied the actual malice standard as pled by Gibson and as set forth in numerous cases decided by this Court.

There is no need to create new law regarding this area of pleading.

III.

IF THE COURT IS INCLINED TO GRANT CERTIORARI, REVIEW OF PETITIONER'S STATUS AS A PUBLIC FIGURE IS MANDATED.

Gibson, who, by his own account, authored an autobiography which sold more copies than *The Godfather* and voluntarily appeared on defendant Rivera's nationally-televised talk show *to discuss Gibson's life* — past and present — claims to be a private figure. He is, however, a public figure for purposes of this action.

In the instant case, there is overwhelming uncontroverted evidence to support the trial court's finding that Gibson is a public figure. In fact, there is no dispute as to the material facts that form the basis of Gibson's status as a public figure. The appellate court erred when it failed to find substantial evidence to support the trial court's decision.

It is *uncontroverted* that Gibson himself contends that: as of 1993, he had been "interviewed in more than 200 magazines, 3,000 newspapers and 400 talk shows." He appeared on national television talk shows (including "Late Night with David Letterman" and "Good Morning America") and radio shows prior to the "Geraldo" show. He states that *Mafia Kingpin* was a best-seller that outsold *The Godfather*. He had spoken "to over 10,000 school kids, was interviewed by *People* Magazine, ABC, CBS and NBC affiliates, and prime time news shows." One newspaper article states, "Gibson said he has spoken to more than 600,000 youngsters and that he receives thousands of letters thanking him for sharing his experiences." He rented the famous outdoor billboard space in Times Square in New York City to promote himself. He has taken out full-page advertisements in the "trades." He has appeared as an actor on television and in motion pictures.

Respondents presented the trial court with two inches of publicity regarding Gibson that Gibson produced in discovery. Additionally, Respondents provided the trial court with more accounts of Gibson taken from WESTLAW.

A variety of newspaper stories predating the "Geraldo" show questioned Gibson's past, and his "change," including one article that resulted in a defamation suit in 1987 by plaintiff against *The Los Angeles Times*. That suit was dismissed by the court.

Nor can there be any question that Gibson has access to the media. Beyond the thousands of interviews he has done, Gibson has a publicist, an agent, and a manager. He has put out numerous press releases regarding this very case, as well as his other activities. He has taken out full page advertisements in the "trades." Ellyn Stern testified that she chose to use plaintiff as the star in her motion picture project because he has "tremendous PR ability."

The *undisputed* evidence, then, establishes that Gibson has thrust himself into the public eye and that he has access to channels of communication.

By virtue of his enormous voluntary public exposure, Gibson is a general purpose public figure as referred to in *Gertz v. Robert Welch, Inc.*, 418 U.S. 323 (1974), and its progeny. He has laid bare all aspects of his life in his autobiography and thousands of interviews, hence, inviting scrutiny as to every aspect of his life (including his criminal and antisocial behavior) and his alleged "reformation."

Gibson also is a limited purpose public figure. Gibson has voluntarily injected himself into the public arena in at least three respects. First, his autobiography, speeches, and interviews put his whole life into the public arena. Second, Gibson publicly espouses the message that "anyone can change" and that his life serves as a public example that one who has committed criminal and other antisocial behavior in the past can reform and serve as a moral leader. Third, through his acting and movie-making career, Gibson has put himself before the public as an entertainer.

Indeed, *Gibson himself* argued in papers filed with the trial court: "Gibson thrust himself into the limelight to influence the public on the issue of his conversion, his acting, and his work to reform juveniles, not sexual harassment."

Gibson, then, is both a general purpose and a limited purpose public figure for the purposes of this case.

CONCLUSION

For the reasons stated above, no review is necessary by this Court and the petition for a writ of certiorari should be denied. If, however, the Court is inclined to grant certiorari, Respondents respectfully request that Petitioner's status as a public figure also be reviewed.

Respectfully submitted,

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